IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

EFA.No. 20 of 2000()

AGAINST THE ORDER DATED 14/03/2000 IN EP. 692 /1991 IN OS.824/1988 of II ADDL.SUB COURT,THRISSUR

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APPELLANT: DECREE HOLDER/AUCTION PURCHASER:

SUREKSHITHA KURIES (P) LTD., THRISSUR,
REPRESENTED BY ITS CHAIRMAN, MR.THOMAS.

BY ADV. SRI.SREELAL N.WARRIER
SRI.SHAJI SEBASTIAN

RESPONDENTS: CLAIM PETITIONER & JUDGMENT DEBTORS:

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1. SAROJINI, W/O.KANDANGATH VASU, MANALUR VILLAGE, AND DESOM, THRISSUR TALUK.

2. PAVU, S/O.AYNIKKAL, CHAKKAMBAN POULOSE, MANALUR VILLAGE AND DESOM, THRISSUR TALUK.

3. ITTIANAM, W/O.AYNIKKAL CHAKKAMBAN, POULOSE, -DO -

BY ADV. SRI.RENJITH THAMPAN

THIS EXECUTION FIRST APPEAL HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

E.F.A.No. 20 of 2000

Dated this the 24th September, 2007.

J U D G M E N T

The decree holder is the appellant herein. This appeal is filed against an order passed by the court below allowing an application under Order XXI Rule 58 of Civil Procedure Code.

2. The short facts necessary for the disposal of the appeal are as follows. Appellant obtained a decree. The property was brought to sale and purchased by the decree holder himself. Thereafter, he filed E.A.No.675/1994 under Order XXI Rule 95 of Civil Procedure Code for delivery of the property. He also filed a petition under Order XXI Rule 97 of the Civil Procedure Code for removal of the obstruction caused by the respondent. In the mean while, respondent filed a petition under Order XXI Rule 58 of Civil Procedure Code, claiming absolute title and possession over the same property. Appellant also filed a petition under Sections 151 and 152 for amendment of decree and pleadings. All the four petitions were heard together. The Executing Court dismissed E.A.No. 675/1994 and E.A.No.555/1995 filed by the appellant for delivery, as well as for

removal of obstruction. It allowed E.A.No.550/1995 filed by the stranger claiming title. It also dismissed I.A.No.2301/1997 for amendment of the decree and pleadings. The decree holder has filed this appeal challenging the order passed by the Executing Court, by which it had allowed the claim petition filed by the claimant. The appellant had not filed any revision against the order dismissing the petition for amendment or appeal against E.A.No. 555/1995, by which the petition for removal of obstruction was dismissed. Those decision have become final and conclusive, and those orders will stand as resjudicata. Even if this appeal is admitted, the appellant will not get any relief in this appeal. So, the appeal is only to be dismissed.

In the result, the appeal is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

E.F.A.No.20 of 2000

J U D G M E N T

Dated: 24th September, 2007.